

B.1.1 Secretary's Fiscal Year 1997 Initiatives and Program Accomplishments

To meet his goal of achieving "One America," President Clinton, in September 1997, directed the Department to increase the number of enforcement actions it brings under the FHAct during his second term. In response, Secretary Cuomo announced his commitment to "crack down" on housing discrimination.

As a first step, in 1997, the Administration developed a proposal for a 73 percent increase in the Department's 1999 budget for the Office of Fair Housing and Equal Opportunity. The proposed budget increase would provide more HUD funding for state and local public agencies that enforce fair housing laws and for public and private fair housing groups engaged in the investigation and prevention of housing discrimination on the local level. This increase in funding will help protect the right of every American family to live and raise their children in any neighborhood they can afford. Meanwhile, the Secretary moved forward with aggressive reforms and enforcement measures to combat housing discrimination in FY 1997. At the time of this report, Congress has approved a 33 percent budget increase for FY 1999.

A. Management Reform

As noted in the Secretary's report to Congress, in 1997 the Secretary announced his Management 2020 Reform Plan. For FHEO, this meant reorganizing and simplifying its structure, and refocusing on its core mission of combating housing discrimination. Management 2020 established performance-based systems to evaluate FHEO programs, operations, and staffing functions. These systems will allow FHEO to implement effective performance measures under the Government Performance and Results Act.

The Secretary also contracted with Price Waterhouse to perform a comprehensive Business Practices Reform (BPR) audit of the Department. As a result of this audit, the Secretary piloted BPR recommendations in three field offices, and FHEO announced and implemented national changes during May 1997 in its methods of enforcing the FHAct. Those changes include:

- Use of technology to make investigations more efficient and effective, notably a unique "paperless file" designed to structure and focus the investigation and to avoid duplication in preparing investigative reports. Its use in three pilot offices demonstrated that investigations could be conducted more quickly, bringing the length of investigations down from an average of 208 days to an average of 75 days. The new technology could also make investigations more effective, reducing supervisory revisions and generating fewer non-concurrences by reviewing legal counsel;

- A new "Assess" and "Tracks" process for handling cases, which helps ensure that only genuine fair housing issues are filed as complaints, and which adds new alternative dispute resolution techniques of third party mediation and binding arbitration to the Department's existing methods for resolving complaints. The systems help focus investigations on factual issues and avoid lengthy "cookie cutter" investigations;
- Implementation of a mediation/arbitration alternative, using the Department's administrative law judges in cases where settlement seems appropriate, but the parties need an independent judge to facilitate settlement;
- Improved customer service standards, including standards for maintaining communications with the parties and the introduction of toll-free telephone lines to each fair housing enforcement center;
- Enhanced use of technology to speed investigations by gathering information from CD-ROMs and the Internet to telescope the length and expense of investigations. This expanded use of this technology also includes more efficient analysis of Home Mortgage Lending Disclosure (HMDA) data in lending cases, the development of Internet mailing lists to aid communication with state and local partners, and greater public access to fair housing information through a fair housing home page with multiple connections to related Web sites;
- Bringing State and local agencies into the BPR process via an Internet connection to ensure that standards for processing all fair housing cases are consistent;
- Extending a computer-based system used to analyze HMDA and census data in lending cases to state and local partner agencies during 1997, as part of the improved Internet support initiative; and
- Providing training to FHAP agencies through the Internet on BPR processes.

B. Enforcement Highlights

FHEO vigorously enforced the FHAct in 1997, closing out 6,298 complaints and 4,364 claims. FHEO conciliated cases for a total of \$10,019,827, for an average of \$13,236 per conciliation. In addition, HUD certified Fair Housing Assistance Program (FHAP) agencies obtained \$3,063,579 in monetary relief.

Statistics -- expanded later in this appendix -- can fail to convey the true meaning of all this in human terms. Consider three egregious cases in which the Secretary filed charges:

- In Worcester, MA, agents working for an apartment rental service wrote the word "Archie" -- allegedly referring to Archie Bunker -- on apartment listings as a code to identify landlords who would not allow their apartments to be shown to minorities;
- In Buffalo, NY, a man threatened to blow up a woman's house after she showed an apartment she owns to a prospective black tenant; and
- In Caldwell, ID, a mobile home park owner barred a woman from buying her father's mobile home because her husband is Hispanic.

A number of other FHEO highlights from FY 1997 warrant mention here. On February 19, 1997, FHEO announced a landmark settlement of a major complaint under the FHAct, which was brought by the National Fair Housing Alliance against Allstate Insurance Companies. Allstate representatives publicly praised the Department's role as conciliator in the case.

The settlement provided that Allstate would implement its Neighborhood Partnership program in predominantly African-American or Latino neighborhoods in Akron, Ohio; Cincinnati, Ohio; Toledo, Ohio; and Richmond, Virginia. In addition, Allstate would place a Sales and Service Center or Allstate agent in African-American or Latino neighborhoods in each of these cities. Allstate has already, or will shortly, place Neighborhood Partnership Programs in Atlanta, Georgia; Chicago, Illinois; Cleveland, Ohio; Dallas, Texas; Detroit, Michigan; Houston, Texas; New York City, New York; Philadelphia, Pennsylvania; Washington, DC; Bridgeport and Hartford, Connecticut; Denver, Colorado; Kansas City, Missouri; Los Angeles, California; Louisville, Kentucky; Memphis, Tennessee; Miami, Florida; Milwaukee, Wisconsin; Minneapolis, Minnesota; New Orleans, Louisiana; Seattle, Washington; and St. Louis, Missouri. Allstate will also establish a national voluntary mediation program to mediate any potential discrimination complaints made to the National Fair Housing Alliance or its members about Allstate.

In FY 1997, FHEO also settled a string of fair housing complaints against an apartment complex and several developers and builders of accessible housing in Atlanta, Georgia; Henderson, Nevada; Boise, Idaho; and Akron, Ohio. The complexes had some units with doorways that disabled persons could not use; inaccessible rental offices; kitchens and bathrooms too small to accommodate wheelchairs; and bathroom walls not strong enough to support grab bars.

FHEO does more than just enforce Title VIII of the FHAct; it ensures that Federally-funded grantees abide by Federal non-discrimination laws. Accordingly, FHEO completed 137 compliance reviews of HUD-funded agencies in fiscal 1997. Perhaps the most noteworthy was the review of the Biloxi, Mississippi Housing Authority, which resulted in findings that the Housing Authority:

- Illegally steered African American, Vietnamese, and other minority residents to certain developments;
- Assigned minorities to certain floors in a development;
- Excluded Vietnamese and Vietnamese-Americans from the Section 8 program; and
- Failed to make units accessible to tenants with disabilities.

The Housing Authority entered a Voluntary Compliance Agreement providing for the desegregation of one development, opening the waiting list for Section 8 subsidies to all interested persons, and providing reasonable accommodations and modifications for residents with disabilities. As a result of these and other civil rights violations, the Department has denied two former employees from participation in any HUD-funded program.

Despite FHEO's best efforts to enforce the FHAct and monitor HUD grantees, the most invidious housing discrimination will continue if the public does not know of its fair housing rights. That is why FHEO is developing a new, simplified form for potential victims to file cases. The form, which will be available in English and Spanish, is already available on the Internet. FHEO has also instituted new toll free telephone numbers for potential victims to communicate with FHEO's ten enforcement offices more cheaply and easily.

C. Studies

To properly enforce the FHAct, the Secretary must know where and how housing discrimination occurs. Accordingly, Secretary Cuomo announced that the Department will undertake a study this year to further explore the extent of lending discrimination against minorities. The 1996 Home Mortgage Disclosure Act data showed that mortgage lenders rejected applications for conventional loans from African Americans 48.8 percent of the time and from Hispanics 34.4 percent of the time. In contrast, they rejected conventional applications from whites 24.1 percent of the time and from Asians 13.8 percent of the time. This points to the need for further research.

The Secretary also announced in 1997 a first-ever nationwide study to document the level of compliance with accessibility requirements. This study will look at projects across the country and architects and builders will be interviewed. FHEO will use the information to more effectively target its education and enforcement efforts.

D. Partnerships

Voluntary compliance, as well as enforcement, is a cornerstone to fair housing. In 1997, FHEO forged new partnerships and bolstered existing ones to create new synergisms and unite public and private organizations in the battle against housing discrimination. For instance, the Secretary signed a Memorandum of Understanding with National Urban League President Hugh Price. The agreement provides that the Department will work with local Urban League affiliates to identify ways to eliminate the housing discrimination they discover.

In FY 1997, the Department also proposed to the National Association of Realtors the creation of a “One America” training course for real estate professionals. The course would provide a strong grounding in fair housing law, diversity training, and other tools to help real estate agents serve all home seekers and to guard against discrimination. Satisfactory completion of the course and the absence of fair housing violations would authorize real estate professionals to use the “One America” logo in advertising and marketing. The agreement between the Secretary and the National Association of Realtors would promote equal housing opportunity and increase minority homeownership, especially among immigrants.

The Department also worked with the banking industry to advance fair housing. FHEO negotiated a voluntary “Best Practices Agreement” with the Mortgage Bankers Association, and went on to sign Best Practices Agreements with more than 117 lenders. Signatories included individual mortgage lenders, state credit union leagues, state mortgage lending associations, depository lenders such as banks and thrifts, and state housing finance agencies.

In addition to working with these private groups, the Department worked with a number of Federal agencies to advance fair housing. For instance, HUD signed a Memorandum of Understanding with the Department of Agriculture to ensure that people living in rural areas, including migrant farm workers, know their rights under the FHAct and receive remedies for the discrimination they suffer. Under the agreement, the Department of Agriculture will forward fair housing complaints involving USDA-funded rural housing programs to HUD for prompt investigation.

Likewise, HUD worked with the Environmental Protection Agency, the Department of Justice, and the Department of Transportation to identify and correct environmental hazards -- such as concentrations of toxic-waste dump sites - which plague minority communities.

The Secretary also signed a Memorandum of Understanding with the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve, and the Federal Trade Commission to coordinate regulatory duties regarding Fannie Mae and Freddie Mac.

B.1.2 Fair Housing Research

To help assess the progress being made nationally in eliminating discriminatory housing practices, the Office of Policy Development and Research (PD&R) pursues several rigorous programs of research and evaluation on fair housing issues.

A. Moving to Opportunity

Moving to Opportunity (MTO), a research demonstration, is intended to examine the impact of moving low income families with children from deprived neighborhoods into neighborhoods with low levels of poverty. Especially important is the effect that this move has on family employment and income, education of the children, housing and neighborhood conditions, attitudes toward the neighborhood, community, and future prospects, and the overall social well-being of those affected.

Under Section 152 of the Housing and Community Development Act of 1992, Congress directed the Department to carry out the MTO Demonstration. Beginning in FY1993, the Department was “to assist very low-income families with children who reside in public housing or housing receiving project-based assistance to move out of areas with high concentrations of poverty to areas with low concentrations of such persons.” The Department is required to prepare biennial reports to Congress on the effectiveness of the Demonstration. By September 30, 2004, the Department is to submit a final report to Congress that describes the “long term housing, employment, and educational achievements of the families assisted under the demonstration program.”

Baltimore, Boston, Chicago, Los Angeles, and New York were selected as MTO sites out of 16 applications submitted in a competition for funding conducted by the Department. Cities eligible for the MTO Demonstration were restricted to those with populations in excess of 400,000 located in consolidated metropolitan areas with populations exceeding 1,500,000.

The first task in the demonstration was to notify residents of selected developments in the five selected cities of the opportunity to participate in MTO. Families who were eligible and indicated an interest in moving to a low-poverty neighborhood were briefed and completed a questionnaire seeking basic information. Families were then randomly assigned to one of three groups. The MTO group received counseling and Section 8 certificates or vouchers that could be used only in a low-income neighborhood. The Section 8 control group received Section 8 certificate vouchers that they could use like other families in the local Section 8 program. The In-Place control group did not receive Section 8 assistance but continued to receive rental assistance in their current development.

The issuance of a certificate or voucher does not ensure that a family will actually be able to use it. Both the Section 8 comparison group and the MTO experimental group must find housing that meets Section 8 program requirements. These requirements concern rent levels and the quality of units that landlords are willing to rent to program participants. In addition, the MTO experimental group must find such housing in low poverty neighborhoods. If families in either group fail to “lease up” using the Section 8 assistance, they must turn in their assistance. This assistance will be randomly assigned to another family. The research will track both the families who lease up and those who have not.

Several cities have completed their MTO lease-ups. The other cities have nearly completed their placing people in the three study groups. The next task for MTO is to track these families over a period of time to study what happens to them.

B. The Nature and Extent of Housing Discrimination

Historically, the Department has conducted studies that use testing methods to examine the nature and extent of housing discrimination. These studies observed pairs of white and minority subjects pursuing purchase and rental housing opportunities for differences in treatment. Examples include the Housing Market Practices Survey in 1977 and the Housing Discrimination Study in 1991.

The Department has begun to design the next generation of housing discrimination studies. Rather than commission single purpose studies at approximately ten year intervals, as is the current practice, the plan is to conduct ongoing testing in a limited number of markets. This will yield more regular information on discrimination and allow better assessment of efforts to fight housing discrimination.

In FY 1999, the Department will conduct a comprehensive audit to test for and evaluate housing discrimination against racial and ethnic minorities in communities around the nation. Three thousand to five thousand tests will be conducted to examine and evaluate patterns and trends in housing sales, rentals, and mortgage lending to minorities. Currently, PD&R is overseeing the bidding process to select one or

more non-partisan, non-affiliated organizations experienced in scientific sampling and surveying to conduct the audit. HUD will also recruit a panel of housing experts from the public, private, and nonprofit sector to assist with this effort. Upon completion of the study, evidence of any likely discrimination will be referred to appropriate parties for possible enforcement actions.

In addition, PD&R is assessing the processing of housing discrimination complaints. The complaint processing study is examining the differences in the handling and results of complaints filed with the Department's administrative law judges and those filed in the Federal courts.

Finally, at the Secretary's request, PD&R has contracted with the Urban Institute to review existing literature and prepare a broad study assessing the current state of fair housing in America. This report should be ready for distribution early in 1999.

C. Public Housing Desegregation

In recent years, fair housing advocates have sued the Department, alleging housing discrimination in its programs. PD&R has conducted research into the settlements in some cases.

The *Young v. Pierce* case involved 70 housing authorities in east Texas. PD&R completed a study that determined how private market housing and the Section 8 program of tenant-based rental assistance could be used to desegregate East Texas.

In *Walker v. HUD* in Dallas, Texas, a PD&R assessment helped determine the need for community development projects to bring public housing neighborhoods up to the level of the surrounding neighborhoods.

In the *Sanders v. HUD* case, in Pittsburgh, PA, a PD&R review helped identify the activities that the PHA needs to take to help achieve integration. The work in *Sanders* also includes a market study similar to that conducted for *Young*.

PD&R has also begun a major long-term evaluation of how successful the efforts in these and six other major cases have been in achieving integration in HUD's housing. This study will document baseline conditions in these segregated housing authorities and intends to show how these conditions changed over time. The study is expected to identify the most effective ways of promoting integration in public housing.

D. Obstacles Remaining to Fair Housing

A major barrier to fair housing is the resistance of many people to locating assisted housing in their neighborhoods. While this opposition may be the result of racial or ethnic prejudice, it is also related to the belief that assisted housing depresses property values, introduces crime into neighborhoods, and causes neighborhood decline. PD&R is conducting several studies which examine the various dynamics involved with the siting of such housing.

Two studies that are nearly complete examine the effect that Section 8 tenant-based rental assistance, scattered-site public housing, and supportive housing for people with disabilities have on property values in the neighborhoods where they are located.

PD&R is also conducting a series of case studies on neighborhood opposition to Section 8 tenants in the community. This project will examine the events that seem to cause such opposition and the responses that seem to quell it. It is intended to help advise public housing agencies on how to run their Section 8 programs so that they are good neighbors in communities where they operate.

E. Fair Lending

Americans value homeownership not only as a personal investment but for its role in promoting strong neighborhoods. However, discrimination in lending can deny minorities access to homeownership and cause disinvestment in some neighborhoods.

PD&R has recently completed a study of lenders who have initiated practices that increase the volume of lending to minorities. This study shows that some lenders are doing good work in this area and it documents practices that appear to be effective in promoting minority lending.

PD&R also issued a series of nine small grants to researchers who are doing work on a variety of topics related to fair lending.

F. Funding of Mortgage Loans to Minority Borrowers

PD&R conducts ongoing analyses of mortgage loan purchases by Fannie Mae and Freddie Mac, based on loan level data submitted by these Government-Sponsored Enterprises (GSEs) and Home Mortgage Disclosure Act (HMDA) data. These data sources make it possible to examine patterns of GSE funding of mortgage loans to minority borrowers and to examine other demographic patterns of GSE activity. In FY 1997, PD&R funded 11 research grants to demonstrate applications of the data and to generate new insights concerning the activities and impacts of the GSEs. Out of the total, seven related to minority lending.

In early 1998, PD&R released much of the loan-level data on the GSEs' 1996 mortgage purchases in the form of a public-use data base. Data for 1993-1995 were previously released. The data will enable researchers throughout the country to study patterns of GSE activity down to the census tract level. It will also allow the study of the characteristics of the borrowers whose loans are purchased, such as the borrowers' income, race, and national origin. PD&R has cooperated with the Unison Institute to make the GSE loan-level data available on-line through the Institute's "rtk.net" world-wide web site, using a retrieval system that facilitates access to data on particular census tracts and cities. The Institute has already developed such a system to provide access to HMDA data.

Appendix B.2 - Enforcing Fair Housing Laws

Congress charged the Office of Fair Housing and Equal Opportunity (FHEO) with enforcing the Fair Housing Act, as amended, (FHA) and its implementing regulations. These provide that FHEO conduct timely investigation, conciliation, and adjudication of complaints of discrimination involving the sale or rental of housing, zoning, mortgage lending, property insurance, community development, environmental justice, and accessibility for persons with disabilities. The FHA prohibits discrimination based on race, color, national origin, religion, sex, familial status, and disability in virtually all housing-related transactions. It covers public, assisted, and most private housing with very few exemptions.

A. How FHEO Processes Cases

A general overview of how FHEO processes cases will help illuminate the discussion of FHEO's performance in combating housing discrimination. Typically, a member of the public reports possible discrimination by mail or telephone to one of FHEO's regional offices. FHEO then performs an intake analysis to ensure that the case meets minimal jurisdictional standards. For example, the intake analysis would screen out a case alleging discrimination strictly on the basis of having received public assistance since the FHA does not cover that type of discrimination.

At this initial stage, the case is considered a "claim" and undergoes preliminary investigation involving only the potential complainant and independent sources of information. Some cases drop out at this stage for any number of reasons. For instance, the complainant may provide information indicating that the matter is a landlord-tenant dispute rather than a fair housing matter, or the evidence may prove that the case was reported after the period of limitations expired.

Cases which survive this "claim" stage are considered "complaints" and receive full investigations which result in a determination by FHEO as to whether there is or is not reasonable cause to believe the FHA was violated. If FHEO finds "no cause," FHEO dismisses the complaint, although the complainant retains his or her right to pursue the matter through private litigation. Throughout the "complaint" stage, FHEO works with both parties to conciliate the case.

If FHEO cannot resolve the case by conciliation and finds reasonable cause to believe the FHA was violated, then the parties may choose between pursuing the matter before a HUD administrative law judge (ALJ) or in U.S. District Court. If the case goes before an ALJ, a HUD attorney prosecutes the case against the respondent. If the case goes to U.S. District Court, the Department of Justice (DOJ) prosecutes the case.

